THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No.26475 of 2007

DATED: 13-12-2007

Between:

Poosaran Appala Narasimham and another

…Petitioners

and

The Greater Visakhapatnam Municipal Corporation, rep. by its Commissioner, Visakhapatnam and others

…Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.No. 26475 of 2007

Oral order:

The petitioners have a dispute with the 2nd and 3rd respondents as regards alleged illegal construction by these respondents, which are alleged to be encroaching into the petitioners' property bearing No. 103 in Gold Smith lay out, Sy.No.10/1 in an extent of 167 Sq. yards in Madhavadhara, near VUDA colony, Visakhapatnam.

The petitioners allege that the 2nd respondent has commenced construction in a plot adjacent to the petitioners, but in a manner that encroaches 3 feet into the 2nd petitioner's site. It is incidentally alleged that the construction is in violation of the building permit as approved by the 1st respondent. The substantive grievance of the petitioners is against the encroachment by the party respondents into their site, an essentially private civil dispute. Such dispute ought to be adjudicated by the civil court of competent jurisdiction in appropriate proceedings. Since no substantive relief as such is claimed against the 1st respondent, there appears no necessity to issue a notice under Section 80 of C.P.C. either. Recourse to the civil court of competent jurisdiction is thus an alternative and effective remedy. In the circumstances, the writ petition under Article 226 of the Constitution is not a remedy of choice and tends to disproportionately burden the docket of this Court.

For the aforesaid reasons, the writ petition is dismissed at the stage of admission. The petitioners are at liberty to pursue appropriate and alternative remedy. There shall be no order as to costs.

GODA RAGHURAM, J

13-12-2007
GRR